



**Linda S. Adams**  
Secretary for  
Environmental Protection

**California Regional Water Quality Control Board**  
**North Coast Region**  
**John W. Corbett, Chairman**

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**Arnold Schwarzenegger**  
Governor

April 18, 2007

In the Matter of

**Water Quality Certification**

for the

**CITY OF FORTUNA, HILLSIDE CREEK – DETENTION BASIN MAINTENANCE  
DREDGING  
WDID NO. 1B07021WNHU**

APPLICANT: City of Fortuna  
RECEIVING WATER: Hillside Creek  
HYDROLOGIC UNIT: Ferndale Hydrologic Subarea 111.11  
COUNTY: Humboldt  
FILE NAME: Fortuna, City of, Hillside Creek – Detention Basin  
Maintenance Dredging

BY THE EXECUTIVE OFFICER:

1. On March 8, 2007, the City of Fortuna filed an application for water quality certification (certification) under section 401 of the Clean Water Act (33 U.S.C. § 1341) with the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) for activities associated with installation of a new culvert outfall and maintenance dredging of the Hillside Creek detention/retention basin (basin) near Rohnerville Road and Smith Lane in the City of Fortuna. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on March 16, 2007, and posted information describing the project on the Regional Water Board's website. We did not receive any public comments on this project.
2. The U.S. Army Corps of Engineers and the Regional Water Board authorized construction of the Hillside Creek storm water detention/retention basin in 1996. The applicant has not performed maintenance dredging of the basin since the structure was completed in 1998. The maintenance dredging project involves excavation, removal, and disposal of vegetation and sediment that has accumulated in the basin since the basin was completed. The purpose of the maintenance dredging project is to re-establish the original basin contours as shown on the 1998 "As-Built"

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improvement plan for the basin construction project that was submitted with the application.

3. The project will include installation of a new culvert and outfall to convey storm water runoff from Smith Lane to the detention basin.
4. Maintenance dredging activities may be conducted on an as-needed basis over the next five years for the purpose of maintaining the detention/retention capacity within the basin.
5. The Army Corps has authorized this project under Nationwide Permit Number 31 - *Maintenance of Existing Flood Control Facilities* (File No.400274N), pursuant to Clean Water Act, section 404.
6. The California Department of Fish and Game has issued a Lake or Streambed Alteration Agreement (Notification No. R1-06-0669) for the project.
7. Compensatory mitigation is not required. Non-compensatory mitigation measures include reintroduction of native vegetation and planting of alder tree plugs. The outlet from the basin will be sealed off during the project to prevent the discharge of water from the basin while the water is turbid from construction activities. The initial episode of maintenance activities is scheduled to occur as soon as all regulatory permits are acquired. The initial maintenance episode is expected to take less than four weeks to complete.
8. The Regional Water Board, as the lead California Environmental Quality Act (CEQA) agency, has determined that this project qualifies for a Categorical Exemption, Section 15301 – Existing Facilities, pursuant to CEQA.

Receiving Water: Hillside Creek, tributary to Rohner Creek, in the Ferndale Hydrologic Subarea 111.11

Filled or Excavated Area: Area Temporarily Impacted: 0.68 acres of in-stream detention basin  
Area Permanently Impacted: none

Dredge Volume: 1,000 cubic yards

Latitude/Longitude: 40° 35' 38" N/124° 8' 40.5" W

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE CITY OF FORTUNA'S HILLSIDE CREEK DETENTION BASIN MAINTENANCE DREDGING ACTIVITIES (WDID NO. 1B07021WNHU), as described in the application, will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law, provided that the City of Fortuna complies with the following terms and conditions:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 3867.
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to title 23, California Code of Regulations, section 3855, subdivision (b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 2200, and owed by the applicant.
4. The Regional Water Board shall be notified in writing at least five working days (working days are Monday – Friday) prior to the commencement of ground disturbing activities, with details regarding the construction schedule, in order to allow staff to be present on-site during construction, and to answer any public inquiries that may arise regarding the project.
5. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this Order, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State. When operations are completed, any excess material or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream.
6. BMPs for erosion, sediment and turbidity control shall be implemented and in place at commencement of, during and after any ground clearing activities or any other project activities that could result in erosion or sediment discharges to surface water.
7. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
8. A copy of this Order shall be provided to the contractor and all subcontractors conducting the work, and shall be in their possession at the work site.
9. If, at any time, an unauthorized discharge to surface water (including wetlands, rivers or streams) occurs, or any water quality problem arises, the associated project activities shall cease immediately until adequate BMPs are implemented. The Regional Water Board shall be notified promptly and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.
10. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.

11. Prior to implementing any change to the project that may have a significant or material effect on the findings, conclusions, or conditions of this Order, the Applicant shall obtain the written approval of the Regional Water Board Executive Officer.
12. All project work shall be conducted as described in this Order and in the application submitted by the Applicant. If the Regional Water Board is not notified of a significant alteration to the project, it will be considered a violation of this Order, and the Applicant may be subject to Regional Water Board enforcement actions.
13. The Eel River watershed is identified on the State of California Clean Water Act Section 303(d) list as impaired for sediment and temperature. Total Maximum Daily Load (TMDL) analyses have been completed for the Eel River watershed sediment and temperature listings. Activities that impact the riparian zone and riparian vegetation are identified as sources contributing to increased stream temperatures. At present, there are no watershed-specific implementation plans for this TMDL. If a TMDL implementation plan is adopted prior to the expiration date of this Order, the Regional Water Board may revise the provisions of this Order to address actions identified in such action plans.
14. The Regional Water Board may add to or modify the conditions of this Order, as appropriate, to implement any new or revised water quality standards and implementation plans adopted and approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act.
15. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
16. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable State or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. In response to a suspected violation of any condition of this certification, the Regional Water Board may require the holder of any federal permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions of this certification, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.
17. In the event of any change in control of ownership of land presently owned or controlled by Coast, Coast shall notify the successor-in-interest of the existence of

this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, and the address and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the project as described in this Order.

18. Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited to and all proposed mitigation being completed in strict compliance with the applicant's project description, and b) compliance with all applicable requirements of the Water Quality Control Plan for the North Coast Region (Basin Plan).
19. The authorization of this certification for any dredge and fill activities expires on April 18, 2012. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

If you have any questions or comments please call Dean Prat at (707) 576-2801.

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Catherine E. Kuhlman  
Executive Officer

041807\_DLP\_FortunaHillSideBasin\_401CertOrder

Original to: Mr. Douglas Jackson, City of Fortuna, P.O. Box 545, Fortuna, CA 95540

Copies to: U.S. Army Corps of Engineers, District Engineer, P.O. Box 4863, Eureka,  
CA 95502  
Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions,  
1455 Market Street, San Francisco, CA 94103-1398